



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.10067 of 2021

and

W.M.P(MD)Nos.7789 & 7790 of 2021

WEB COPY

P.Mariappan

... Petitioner

vs.

1.The Government of Tamil Nadu,
Rep. by its Secretary to Backward Classes,
Most Backward Classes, De-notified Communities
and Minorities Welfare Department,
Secretariat,
Chennai - 600 009.

2.The Director,
Directorate of Backward Classes Welfare,
Ezhilagam,
Chepauk,
Chennai - 600 005.

3.The District Collector,
O/o.The District Collector,
Tirunelveli District,
Tirunelveli.

4.The Welfare Officer,
Directorate of Backward Classes Welfare,
O/o.The Welfare Officer,
Directorate of Backward Classes Welfare,
Tirunelveli District,
Tirunelveli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Oo.Mu.Ga.5/22846/2020, dated 15.09.2020 on the file of the fourth respondent and the consequential impugned Advertisement dated 20.09.2020 published in the Dinamalar News daily on the file of the third respondent and quash the same as illegal and consequently for a direction, directing the third respondent to appoint the petitioner in the post of Cook in the available vacancies within the time stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.P.Subbaraj
Government Advocate



ORDER

This Writ Petition is filed seeking for a Writ of Certiorarified Mandamus, to quash the impugned order in Oo.Mu.Ga.5/22846/2020, dated 15.09.2020, passed by the fourth respondent and the consequential impugned Advertisement, dated 20.09.2020, published in the Dinamalar News daily on the file of the third respondent and quash the same as illegal and consequently for a direction, directing the third respondent to appoint the petitioner in the post of Cook in the available vacancies within a time frame to be fixed by this Court.

2.Mr.P.Subbaraj, learned Government Advocate accepts notice on behalf of the respondents.

3.According to the petitioner, he was appointed as Sweeper on 13.06.2013 under the reservation of Physically Disabled Person through Employment Exchange at Government Backward Classes Welfare Students Hostel in Tirunelveli District, on a consolidated pay of Rs.2,000/-. As per G.O(Ms)No.151, Department of Social Welfare and Nutritious Meal Programme, dated 16.10.2008, the respondents have to regularize and provide time scale of pay for the physically disabled person, who are working on consolidated pay for more than two years. Hence, the petitioner made a representation to the respondents and filed a Writ Petition in W.P(MD)No.18928 of 2016 before this Court. As per the order of this Court, dated 04.10.2016, the Government issued G.O(Ms)No.63, dated 08.10.2018, granting special time scale of pay of Rs.7,000/- with prospective effect.

4.Further, according to the petitioner, though he was appointed as part time Sweeper in the Hostel, he was instructed to do the cooking work as a Cook. There are several vacancies available in the post of Cook for several years. Hence, the petitioner made a representation to the fourth respondent, dated 14.09.2020, to transfer and promote him as a Cook. The representation of the petitioner was rejected by the fourth respondent, by the impugned order, dated 15.09.2020. In the above circumstances, a press release was issued by the third respondent in the Dinamalar News daily, dated 20.09.2020, regarding recruitment of Cooks in the Hostels functioning under the control of the fourth respondent and in the said press release, it was mentioned that there are six posts of Cook were vacant. The petitioner has come out with the present Writ Petition challenging the impugned order, dated 15.09.2020, passed by the fourth respondent rejecting the representation of the petitioner for promotion and the press release issued by the third respondent published in the Dinamalar News daily on 20.09.2020.

5.The learned counsel appearing for the petitioner submitted that the impugned order of rejection and press release are arbitrary, illegal and unjust. Though the petitioner was appointed



as part time Sweeper in the Hostel, he was instructed to assist the Cook in the said Hostel and prayed for setting aside the orders of the respondents 3 and 4 and allowing the Writ Petition.

6. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents and perused the entire materials available on record.

7. The admitted case of the petitioner is that he was appointed as Sweeper and he continues to work as Sweeper from the date of his appointment. According to the petitioner, in addition to the work of sweeper, he was instructed to assist the Cook and there are several vacancies in the post of Cook. As the petitioner knows cooking, he sent a representation to the fourth respondent to transfer and promote him as Cook. The fourth respondent rejected the said request, as there is no provision for promotion to the post of Cook. The petitioner has not provided any material with regard to the promotion to the post of Cook and the petitioner alone is discriminated. When there is no provision for promotion from the post of Sweeper to Cook, he is not entitled for transfer and promotion as Cook. Hence, the impugned order of rejection, dated 15.09.2020, passed by the fourth respondent, is valid. Further, the petitioner has not raised any ground as to how the impugned press release published in Dinamalar News Daily, dated 20.09.2020, issued by the third respondent, is arbitrary and illegal. Further, the petitioner has challenged the press release published in the Dinamalar News Daily, dated 20.09.2020, in the month of June, 2021.

8. For the above said reasons, the Writ Petition is devoid of merits and the same is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CSI)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the

<https://hcservices.ecourts.gov.in/hcservices/>



advocate / litigant concerned.

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To

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+1 CC to M/s.SPL GP (SR-19348[F] dated 15/06/2021)

**W.P (MD) No.10067 of 2021
14.06.2021**

GS (24.06.2021) 4P 6C